

IN THE HIGH COURT OF JUDICATURE AT BOMBAY***CRIMINAL APPELLATE JURISDICTION*****CRIMINAL WRIT PETITION NO.4947 OF 2017**

Vikas Lahuraj Bhosale.] ... Petitioner

Versus

State of Maharashtra & Anr.] ... Respondents

Mr. Chaitanya Malgaonkar a/w Mr. Dharmesh Shah i/b GMS Legal for Petitioner.

Mrs. M. M. Deshmukh, Addl. P. P. for State – Respondent No.1.

Mr. Sagar Ambedkar for Respondent No.2.

Ms. Swapnali Shankar Sagare, Respondent No.2, along with her father Mr. Shankar Maruti Sagare, present.

**CORAM :- R. M. SAVANT &
SARANG V. KOTWAL, JJ.**

DATE :- 05 APRIL, 2018

P. C. :-

1. The quashing of the FIR being C.R.No.180 of 2016 registered with the Worli Police Station for the offences punishable under Sections 376(1) and 417 of the IPC is sought in view of the supervening event of the Petitioner and the first informant i.e. the Respondent No.2 herein, having got married on 15/10/2017. It seems that the Petitioner and the Respondent No.2 herein are residing

in the same building being a BDD Chawl in Worli. The FIR for the offences alleged has arisen on account of the fact that the Petitioner and the Respondent No.2 were in a relationship. The FIR has been registered on 21/05/2016 and the charge-sheet has been filed thereafter. To the petition is annexed the Marriage Certificate dated 13/11/2017 issued by the Municipal Corporation for Greater Mumbai, recorded therein is the factum of the marriage between the Petitioner and the Respondent No.2 having taken place on 15/10/2017. The Petitioner has also annexed the wedding invitation card at page 69. On the wedding invitation card, reference of the Petitioner as being the resident of Room No.72, BDD Chawl No.73, Worli, Mumbai, has been mentioned as well as the venue for the wedding being Kashinath Dhuru Hall, Chhabildas Road, Dadar (West), Mumbai – 400 022 has also been mentioned. The letter dated 23/11/2017 of the Respondent No.2 to the Senior Police Inspector of Worli Police Station is also annexed to the Petition as Exh.C, page 70. In the said letter, the factum of the Petitioner and the Respondent No.2 having got married on 15/10/2017 finds a mention. Both the Petitioner and the Respondent No.2 are major and are of the age 27 and 22 years respectively.

2. This being a peculiar case where after the lodgment of the FIR the first informant has married the Petitioner who is the subject of allegations in the FIR, we deemed it appropriate to request the father of the first informant i.e. the Respondent No.2, to personally remain present in this Court. Accordingly, the father Mr.Shankar Maruti Sagare is personally present in Court. He is identified by learned Counsel Mr. Ambedkar for the Respondent No.2. He is further identified by his Aadhar Card bearing no.6659 9924 5021. To ensure that what has been annexed to the Petition are documents which relate to the marriage of the Petitioner and the Respondent No.2, we had accordingly queried the father of the Respondent No.2. Father of the Respondent No.2 informed us that the Petitioner and the Respondent No.2 had got married on 15/10/2017, that invitation card annexed to the above Petition is the invitation card of the said marriage and that the Marriage Certificate issued by the Municipal Corporation is also in respect of the said marriage which has taken place on 15/10/2017. He further informed us that he had attended the marriage ceremony and that he supports his daughter in her endeavour to cooperate in the quashing of the FIR which is lodged against the Petitioner herein.

3. The Petitioner Vikas Lahuraj Bhosale is also personally present in Court as also the Respondent No.2 Swapnali Shankar Sagare. The Petitioner is identified by learned Counsel Mr. Chaitanya Malgaonkar appearing along with Mr. Dharmesh Shah. When put in the box and queried, he states that the marriage invitation cards were printed by him and that the Certificate issued by the Municipal Corporation is of the marriage between him and the Respondent No.2. He further states that now he and the Respondent No.2 are residing together.

4. When put in the box and queried, the Respondent No.2 also reiterates what has been stated by the Petitioner namely that she and the Petitioner have got married and that presently they are residing together and that the Marriage Certificate is of the said marriage.

5. Normally, we would have been circumspect in considering an Application for quashment of an FIR which has been lodged under Section 376 of the IPC as the said offence is said to be an offence against the society. However, having regard to the peculiar facts of

this case which, as indicated above, disclose that after the lodgment of the FIR the parties have married each other, the consideration would have to undergo a change as the continuance of the proceedings would unnecessarily hamper the married life of the Petitioner and the Respondent No.2 and would cause mental agony and stress to them. Hence, it is in the peculiar facts and circumstances of this case, we deem it appropriate to exercise our writ jurisdiction under Article 226 of the Constitution of India to quash and set aside the proceedings which have arisen out of registration of the FIR being C.R.No.180 of 2016. The Petition would, accordingly, have to be allowed and is allowed in terms of prayer clause (c). The Petition to accordingly stand disposed of.

(SARANG V. KOTWAL, J.)

(R. M. SAVANT, J.)